

### **REMARKS**

Claims 1-7, 9-15, 18-34, 55 and 62-73 and 75-88 were previously pending in this application. Claims 1, 11, 13, 18, 62, 75, 76, 78, 79 84, 86 and 88 are amended. New claims 89-92 are added. No claims are cancelled. As a result, claims 1-7, 9-15, 18-34, 55 and 62-73 and 75-92 are pending for examination with claims 1, 13, 18, 62 and 79 being independent claims. No new matter has been added. The newly-added claims are directed to the elected invention and therefore should be examined pursuant to MPEP 821.03. Support for the claim amendments can be found at least in the specification, at paragraphs 29 and 30 of the published application and in the originally-filed figures.

### **Summary of Telephone Conference with Examiner**

Applicant thanks Examiner Conley for his time and courtesy during the telephone interview conducted on February 5, 2008 with the undersigned. During the interview the parties discussed the subject matter of the cited reference U.S. Patent No. 6,695,269 to Anscher (hereinafter "Anscher") and claim 1 in view of Anscher. Applicant also thanks Examiner Conley for his time and courtesy during a subsequent telephone interview conducted on March 4, 2008. During this interview the parties discussed in greater detail the flexible connection of the latch and the travel of the latch relative to the housing. No agreement was reached regarding the patentability of the claims as a result of these discussions.

### **Claim Rejections**

The Office Action rejects claims 1-3, 5, 7, 9-14, 18-20, 22, 24, 26-27, 30, 32-34, 55, 62-64, 66, 68-73, 75-76, 79-80, and 85-86 under 35 U.S.C. §102(e) as being anticipated by Anscher. The Office Action rejects claims 6, 23, 31, 67, and 82 under 35 U.S.C. §103(a) as being unpatentable over Anscher in view of U.S. Patent No. 5,507,610 to Benedetti et al. (hereinafter "Benedetti"). The Office Action rejects claims 4, 15, 21, 25, 28-29 65 and 81 under 35 U.S.C. §103(a) as being unpatentable over Anscher. The Office Action rejects claims 77-78, 83-84 and 87-88 under 35 U.S.C. §103(a) as being unpatentable over Anscher in view of U.S. Patent No. 4,681,552 to Courtney (hereinafter "Courtney").

Rejections Under 35 U.S.C. §102

Applicant respectfully asserts that each of independent claims 1, 13, 18 and 79 is patentably distinct in view of Anscher at least because Anscher does not describe a latch flexibly connected to a region of the base located on an open side of the housing, as recited in each of claims 1, 13, 18 and 79.

In contrast to the preceding, Fig. 9 of Anscher illustrates a flexible arm 21 which is attached to a wall 19. (Col. 3, lines 39-42.) The wall 19 is a semicircular wall is attached to an overhanging lip 20. Id. Anscher describes that an implement holder is inserted underneath lip 20 to lock the implement holder within the base. (Col. 3, lines 50-52.) As illustrated in Fig. 1 of Anscher, the flexible arm 21 is not connected to the wall, or to any other portion of the base 10 that is "located on an open side of the housing." Further, Anscher does not describe that any part of the base 10 except the arm 21 is flexible. Accordingly, claims 1, 13, 18 and 79 are allowable at least because Anscher does not describe a latch flexibly connected to a region of the base located on an open side of the housing.

In addition, regarding claim 1 and new dependent claims 90 (which directly depends from claim 13) and 92 (which directly depends from claim 62), Anscher also fails to describe that the latch "is constructed to locate the portion of the latch [that retains the fastening element] between the region of the base to which the latch is flexibly connected and a location of the fastening element when the fastening element is retained in the housing." This is best illustrated when comparing a side cross sectional view of the fastener 10 included in the instant application, and illustrated in Fig. 3, with Fig. 9 of Anscher. The latch 20 is located on the left of Fig. 3 and one end of the latch 60 is located at the right end of the latch. As illustrated in Fig. 6 of the instant application, the fastening element 18 is located to the right of the end of the latch 60. Thus, the latch, the end of the latch and the fastening element are located relative to one another with the end of the latch located between the region of the base to which the latch is flexibly connected and a location of the fastening element when the fastening element is retained in the housing.

In contrast, Fig. 9 of Anscher illustrates a protrusion 23 on the left of the figure, where the implement holder is located to the right of the protrusion when the holder is inserted in the base 10. The region of the base to which the flexible arm 21 is attached to the base 10 is located at the wall 19 at a location that is to the right of both the protrusion 23 and the location of the implement holder. As a result, Anscher does not describe a structure that locates a latch between the region of the base to which the latch is flexibly connected and a location of the fastening element when the fastening element is retained in the housing. Accordingly, claim 1 is also allowable in view of Anscher for this additional reason.

Regarding independent claim 62, Applicant respectfully asserts that claim 62 is patentably distinct in view of Anscher at least because Anscher does not describe that “a latch includes a portion that is positioned relative to the housing to retain the fastening element by interference with a lateral surface of the fastening element ... where a location of the fastening element is centered about an axis perpendicular to the fastener when the fastening element is retained in the housing, and wherein a distance between the portion of the latch and the axis increases when the force is applied to the surface proximate the opening to depress the latch,” as recited in claim 62

The immediately preceding distinction may be better understood with reference to Figs. 3 and 5 of the instant application and Figs. 9 and 10 of Anscher. For example, an axis perpendicular to the fastener and about which the fastener is centered is located in Fig. 3 approximately where the reference lines indicate a location of the cross section for Fig. 4. The travel of the latch relative to the axis perpendicular to the fastener can be viewed when comparing the position of the latch in Fig. 3 with the position illustrated in Fig. 5. Fig. 5 illustrates that the end portion of the latch moves in a path that increases the distance between the end portion of the latch and a perpendicular axis about which the fastening element is centered.

In contrast, Figs. 9 and 10 of Anscher illustrate that the protrusion 23 moves in a path that decreases a distance between the protrusion and a vertical axis drawn through the center of those figures. Accordingly, claim 62 is allowable at least because Anscher does not describe that a latch includes a portion where a distance between the portion of the latch and the axis increases when the force is applied to the surface proximate the opening to depress the latch. The

preceding distinction also applies to new dependent claims 89 (directly depending from claim 1) and 91 (directly depending from claim 13).

Each of claims 2, 3, 5, 7, 9-12, 14, 19, 20, 22, 24, 26, 27, 32-34, 55, 63, 64, 66, 68-73, 75-76, 80 and 85-86 depend from one of the allowable independent claims and are therefore allowable for at least one or more of the reasons described above. Accordingly, for all of the above reasons, reconsideration and withdrawal of the rejection of claims 1-3, 5, 7, 9-14, 18-20, 22, 24, 26-27, 30, 32-34, 55, 62-64, 66, 68-73, 75-76, 79-80, and 85-86 under 35 U.S.C. §102(e) as being anticipated by Anscher is respectfully requested

#### Rejections Under 35 U.S.C. §103

Each of independent claims 1, 13, 18, 62 and 79 is patentable in view of Anscher as described above. Each of claims 6, 23, 31, 67, and 82 depends from one of the allowable independent claims. Benedetti fails to cure the deficiencies of Anscher because, for example, Benedetti does not teach or suggest a latch flexibly connected to a region of the base located on an open side of the housing, as recited in each of independent claims 1, 13, 18 and 79. Further, Benedetti does not teach or suggest that "a latch includes a portion that is positioned relative to the housing to retain the fastening element by interference with a lateral surface of the fastening element ... where a location of the fastening element is centered about an axis perpendicular to the fastener when the fastening element is retained in the housing, and wherein a distance between the portion of the latch and the axis increases when the force is applied to the surface proximate the opening to depress the latch," as recited in claim 62. Accordingly, each of claims 6, 23, 31, 67 and 82 is patentable in view of Anscher in view of Benedetti at least for the reasons described above. Accordingly, reconsideration and withdrawal of the rejection of claims 6, 23, 31, 67 and 82 under 35 U.S.C. §103(a) as being unpatentable over Anscher in view of Benedetti is respectfully requested.

The Office Action rejects claims 4, 15, 21, 25, 28-29, 65 and 81 under 35 U.S.C. §103(a) as being unpatentable over Anscher. As described above, each of independent claims 1, 13, 18, 62 and 79 is patentable in view of Anscher. Each of claims 4, 15, 21, 25, 28-29, 65 and 81 depends from one of the allowable independent claims. Accordingly, each of claims 4, 15, 21,

25, 28-29, 65 and 81 is patentable in view of Anscher at least for the reasons described above. Accordingly, reconsideration and withdrawal of the rejection of claims 4, 15, 21, 25, 28-29, 65 and 81 under 35 U.S.C. §103(a) as being unpatentable over Anscher is respectfully requested.

The Office Action rejects claims 77-78, 83-84 and 87-88 under 35 U.S.C. §103(a) as being unpatentable over Anscher in view of Courtney. Independents claim 13 and 79 are patentable in view of Anscher as described above. Claims 77-78 depend from claim 13 and claims 83-84 and 87-88 depend from claim 79. Courtney fails to cure the deficiencies of Anscher, namely because Courtney does not teach or suggest a latch flexibly connected to a region of the base located on an open side of the housing, as recited in each of independent claims 13 and 79. Accordingly, claims 77-78, 83-84 and 87-88 are patentable in view of Anscher in view of Courtney at least for the reasons described above. Accordingly, reconsideration and withdrawal of the rejection of claims 77-78, 83-84 and 87-88 under 35 U.S.C. §103(a) as being unpatentable over Anscher in view of Courtney is respectfully requested.

#### Figures 14 and 15 of Anscher

Although Figures 14, 15a and 15b are not relied upon by the Examiner, in view of the Response to Arguments included in the instant Office Action, Applicant finds it necessary to again state his position here that Figures 14, 15a and 15b are alternate embodiments (when compared with Figs. 1-13). That is, Applicant does not accede to the position that Fig. 15b is “not an alternative embodiment” as stated in the Response to Arguments.

**CONCLUSION**

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

A petition and fee for a one month extension of time are included herewith. If this response is not considered timely filed in view of the petition and fee, and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. No. C0852-7013.

Respectfully submitted,  
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